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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

**IN RE COLLEGE ATHLETE NIL
LITIGATION**

Case No. 4:20-cv-03919-CW

**SECOND STIPULATION AND ORDER
SUPPLEMENTING AND AMENDING
PROTECTIVE ORDER REGARDING
HIGHLY CONFIDENTIAL – COUNSEL
ONLY AND CONFERENCE STRICTLY
CONFIDENTIAL INFORMATION**

Hon. Claudia Wilken

On December 22, 2020, this Court entered a Stipulation and Protective Order (the “Protective Order”) in this action (Docket No. 137). Exhibit A to the Protective Order provides for the confidentiality designation of “Highly Confidential – Counsel Only.” Highly Confidential – Counsel Only Information¹ is defined as:

any document, response to discovery, or deposition transcript which that Disclosing Party considers in good faith to contain Confidential Information, the disclosure of which to another party or non-party would create a substantial risk of serious harm that could not be avoided by less restrictive means (Highly Confidential – Counsel Only Information).

Ex. A to Protective Order (Docket No. 136-1).

The Protective Order further contemplated that the parties would separately negotiate appropriate protections for documents to be produced in this action that could be designated Conference Strictly Confidential – Outside Litigation Counsel Only or Network Strictly Confidential – Outside Litigation Counsel Only under the Protective Order. On February 8, 2021, the Court entered a Supplemental Stipulation and Order Supplementing and Amending Protective Order Regarding Conference and Network Strictly Confidential Documents (the “First Supplemental Stipulation & Order”) (Docket No. 148).

The First Supplemental Stipulation & Order defines House Conference Strictly Confidential – Outside Litigation Counsel Only Information as:

3. Any party or non-party may designate as House CSC – Outside Litigation Counsel Only (by stamping the relevant page or portion “House CSC – Outside Litigation Counsel Only”) any document, response to discovery, deposition transcript, or anything else furnished during the course of these actions that includes or concerns financial information, contractual terms, or other sensitive business information of a Conference Defendant in these actions (including summaries or analyses of such information that may identify the nature of such terms), that the Disclosing Party or their contractual counterparty considers in good faith to contain information, the disclosure of which to in-house counsel or specific individual outside counsel of another party or non-party would create a substantial risk of serious competitive, business, or financial harm to such designating party or to a party or non-party to which such designating party has a confidentiality obligation (“House CSC – Outside Litigation Counsel Only Information”).

1 This Second Supplemental Stipulation and [Proposed] Order reflects the parties' agreement to further
2 amend the Protective Order and the First Supplemental Stipulation & Order regarding Highly
3 Confidential – Counsel Only Information and House Conference Strictly Confidential – Outside
4 Litigation Counsel Only Information.

5 THEREFORE, through counsel, the parties stipulate and move the Court to order that:

6 1. Highly Confidential – Counsel Only Information includes all information produced by
7 an NCAA member school, college, university, or institution that is protected by the Family
8 Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g (hereinafter “FERPA-Related
9 Information”). Any member school, college, university, or institution may designate documents that
10 contain FERPA-Related Information as “Highly Confidential – Counsel Only” in accordance with the
11 provisions of the Protective Order.

12 2. Materials or information designated as FERPA-Related Information shall not be
13 disclosed, except in accordance with the terms of the Protective Order governing the disclosure of
14 Highly Confidential – Counsel Only Information and shall be redacted from public documents and
15 filings, unless otherwise required by court order.

16 3. In the event any individual member school, college, university, or institution is named
17 as a defendant in this action, any such information produced by a member school, college, university,
18 or institution in response to a third party subpoena shall be treated as “House CSC – Outside Litigation
19 Counsel Only” as to the named individual member school, college, university, or institution only.

20 IT IS SO STIPULATED.
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27 ¹ Capitalized terms used herein shall have the same definition and meaning as set forth in the
28 Protective Order and Supplemental Stipulation and Order Supplementing and Amending Protective
Order Regarding Conference and Network Strictly Confidential Documents.

Dated: March 28, 2022

Respectfully submitted,

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ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the signatories above.

/s/ Jeffrey L. Kessler
JEFFREY L. KESSLER

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED,

DATED: March 29, 2022

A handwritten signature in blue ink, appearing to read 'Claudia Wilken', with a long horizontal flourish extending to the right.

The Hon. Claudia Wilken
UNITED STATES DISTRICT JUDGE